

2009 HOUSE POLITICAL SUBDIVISIONS

HB 1271

# 2009 HOUSE STANDING COMMITTEE MINUTES

## Bill No. HB 1271

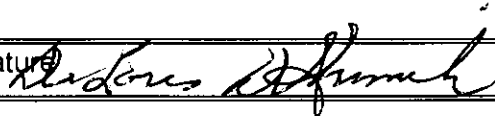
### House Political Subdivisions Committee

☐ Check here for Conference Committee

Hearing Date: February 5, 2008

Recorder Job Number: 8757

Committee Clerk Signature



Minutes:

**Chairman Wrangham** opened the hearing on HB 1271.

**Rep. Wieland:** Introduced this bill. (See testimony #1).

**Terry Traynor: Ass't Director, ND Assoc. of Counties:** (see testimony #2). Went over and explained the testimony.

**Rep. Nancy Johnson:** What cities would this effect?

**Terry Traynor:** The ones that still are elected in districts and serve in districts are in small central cities. Usually there is one city that has the most population.

**Rep. Conrad:** If a commissioner moved to another district, they don't have to give up their position.

**Terry Traynor:** that is the current law. They are elected by all the citizens so they get to finish out their term.

**Rep. Jerry Kelsh:** How far can these districts be apart?

**Terry Traynor:** I don't think it has been litigated. The committee using the model is elected at large. The federal election committee really doesn't have a problem with this. I believe it generally runs about 20%.

**Rep. Jerry Kelsh:** Would this represent rural areas in this bill?

**Terry Traynor:** I think they are now. This does not change that.

**Rep. Kretschmar:** How many commissioners in the county are on this board in terms of the makeup?

**Terry Traynor:** This would change that a little bit. Generally in the past the board, which only has one chairman of the county commissioner; then states attorney and then city people and township people to makeup this board. They decide whether you are going to be in districts or at large. There was a provision in the optional method where the county commissioners over ruled that and we are just going to us the optional. This leaves that decision with the redistricting board.

**Chairman Wrangham:** The repeal section is reworded somewhat obviously. You are certain there were no changes made really.

**Terry Traynor:** Starting on page 3, line 26, at Sub 2.

No opposition

No neutral.

Hearing closed.

**Chairman Wrangham reopened.**

**Motion Made By Rep. Jerry Kelsh Do Pass; Seconded By Rep. Kilichowski**

**Vote:      12    Yes      0    No          1    Absent          Carrier Rep. Corey Mock**

**Hearing closed.**

Date: 2/6/09  
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB-1271

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS DO NOT PASS AS AMENDED

Motion Made By Rep. J. Kelsh Seconded By Rep. Kilichowski

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman	✓		Rep. Kari Conrad	✓	
Rep. Craig Headland, Vice Chairman	✓		Rep. Jerry Kelsh	✓	
Rep. Patrick Hatlestad	✓		Rep. Robert Kilichowski	✓	
Rep. Nancy Johnson	✓		Rep. Corey Mock	✓	
Rep. Lawrence Klemin	✓		Rep. Steve Zaiser	✓	
Rep. Kim Koppelman	0				
Rep. William Kretschmar	✓				
Rep. Vonnie Pietsch	✓				

Total (Yes) 12 No 0

Absent 1

Carrier: Rep Mock

If the vote is on an amendment, briefly indicate intent:

Job 11

**REPORT OF STANDING COMMITTEE (410)**  
February 5, 2009 12:35 p.m.

**Module No: HR-23-1759**  
**Carrier: Mock**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1271: Political Subdivisions Committee (Rep. Wrangham, Chairman) recommends DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1271 was placed on the Eleventh order on the calendar.

2009 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1271

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No.1271

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 03/13/09

Recorder Job Number: 10949

Committee Clerk Signature

*Katie Oliver*

Minutes:

Chairman Dever opened the public hearing on HB1271. Representative Allen Wieland was there to introduce the bill.

**Allen Wieland:** Allen Wieland, Representative from District 13 in West Fargo. Just as the legislative districts must be realigned every 10 years after a federal census the districts from which county commissioners are elected need to be reviewed as well. Unfortunately, the laws governing the commissioner re-districting process were put in place before statehood and the periodic fixes have left counties with a rather confusing process to implement. Also, since counties don't want to align districts until after we do ours, so that they can line up boundaries wherever possible, the hearing and deadline dates put in place before statehood are in serious need of adjustment, this is some long overdue cleanup.

**Senator Nelson:** How does Cass County do their redistricting?

**Allen Wieland:** We are set up as districts where they must live, but you are elected at large.

**Senator Nelson:** Wherever possible do they try to follow city/school district boundaries?

**Allen Wieland:** In Cass County, it is based on population or as close to population as you can.

We have 3 commissioners that have to live within Fargo and then there is a 4<sup>th</sup> district in West Fargo and rural is district 5. And that is purely population.

**Senator Nelson:** And the people voted on that when we put in the home rule?

**Allen Wieland:** Yes

**Senator Dever:** Burleigh County elects at large so redistricting is not an issue.

**Allen Wieland:** Yes, for most counties that is true. There are different ways to do the election.

**Senator Dever:** I think that the city commission in Grand Forks is broken up into wards.

**Senator Bowman:** Senator Bill Bowman District 39, also a Bowman County Commissioner.

When you are electing people to represent you, you want to do it as fairly as you can. We let the people in Bowman County vote in the last election to see if they wanted to put in into districts and they voted it down. There is a reason for that, it's not that they dislike the people that run, but once in a while there is a person who is there to cause more trouble than to try and solve problems and that makes it hard for certain rural areas. That is why it is imperative that the people make the decision for the county. I can see where you have a large population and you have 2-3 people running from little geographical areas, you need districts.

**Senator Dever:** It was interesting to me and the address book that we get from the county and in Slope County the 3 commissioners had rural addresses.

**Terry Traynor:** Assistant Director for North Dakota Association of Counties. See attached testimony #1.

**Senator Dever:** How many counties are affected?

**Terry Traynor:** All 53 counties. Unless you are a home rule county, they would not. They have their own process.

**Senator Dever:** How many counties elect by district instead of at large?

**Terry Traynor:** 18 that are in district, 19 in district at large, and the remaining 21 are at large at large.

**Senator Horne:** Ward County elects them at large. How do we get to the at large if we didn't comply with the guidelines?

**Terry Traynor:** It is not possible for them under current law, because current law requires a rural district. When you have a high concentration of your population in the cities there is no way you can re-district and still come up with a district in the rural area that has a predominate amount of the population in the rural area. The only way to do it is with pie's of the city and that is in violation of current law.

**Senator Horne:** So, Ward County could go to a rural district representation required if the citizens wanted to. Does the population vote or do the county commissioners decide for themselves?

**Terry Traynor:** County Commissioners don't have much say in this. There is a re-districting board that is described in the first section; the chairman of the county commission sits on that board. That body decides what the boundaries will be.

**Senator Dever:** We would have 4 commissioners in the city and 1 out of the city. Right now we have 2 that live outside the limits.

**Senator Nelson:** What is the definition of rural?

**Terry Traynor:** That is what it is, outside city limits.

**Senator Nelson:** Anything that is not within city limits?

**Alvin Jager:** Secretary of State. After the last Census, Dave Singer brought to our attention that the law was impossible to work the law that is in place. I made a vow that this was not going to happen under my watch. I took up the battle. They rightly so, had a lot of input. I think that it behooves not to let this go on any longer. Let's not have it happen again, if it isn't changed.

Chairman Dever closed the public hearing on HB1271.

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No.1271

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 03/13/09

Recorder Job Number: 11350

Committee Clerk Signature

Kate Oliver

### Minutes:

Chairman Dever called the committee to order to discuss HB1271. There were no amendments offered to the bill. Senator Nelson made a motion for a do pass with a second by Senator Horne. There was no discussion, the motion passed with a vote of 5-0, and Senator Cook carrying the bill to the floor.

Date: 3-20  
Roll Call Vote #: 1

Carrier  
Cook

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1271

Senate Government and Veteran's Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Nelson Seconded By Horne

Representatives	Yes	No	Representatives	Yes	No
Dick Dever	X		Dwight Cook	X	
Dave Oehlke	X		Carolyn Nelson	X	
Robert M. Horne	X				

Total Yes 5 No 0

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
March 20, 2009 1:49 p.m.

**Module No: SR-52-5487**  
**Carrier: Cook**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1271: Government and Veterans Affairs Committee (Sen. Dever, Chairman)**  
recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1271  
was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1271

#1

HB 1271

GOOD MORNING. MR. CHAIRMAN AND MEMBERS OF THE POLITICAL SUBDIVISIONS COMMITTEE.  
FOR THE RECORD, I AM ALON WIELAND, REPRESENTATIVE FROM DISTRICT 13 IN WEST FARGO  
JUST AS THE LEGISLATIVE DISTRICTS MUST BE RE-ALIGNED EVERY 10 YEARS AFTER A FEDERAL CENSUS,  
THE DISTRICTS FROM WHICH COUNTY COMMISSIONERS ARE ELECTED MUST BE REVIEWED AND  
ADJUSTED AS WELL.

UNFORTUNATELY, THE LAWS GOVERNING THE COMMISSIONER REDISTRICTING PROCESS WERE PUT IN  
PLACE BEFORE STATEHOOD, AND THE PERIODIC "FIXES" HAVE LEFT COUNTIES WITH A RATHER  
CONFUSING PROCESS TO IMPLEMENT.

ALSO, SINCE COUNTIES ARE RELUCTANT TO SET COMMISSIONER DISTRICTS UNTIL AFTER WE AS A  
LEGISLATURE GET DONE WITH OURS (SO THEY CAN LINE UP BOUNDARIES WHERE EVER POSSIBLE), THE  
HEARINGS AND DEADLINE DATES PUT IN PLACE BEFORE STATEHOOD ARE IN SERIOUS NEED OF  
ADJUSTMENT.

WHILE IT IS ALWAYS DANGEROUS TO CALL SOMETHING A "HOUSEKEEPING BILL", THIS IS REALLY JUST  
SOME LONG OVERDUE CLEAN UP.

THERE ARE OTHERS HERE TO TESTIFY TO THE FACTS, B UT I WILL TRY TO ANSWER YOUR QUESTIONS.

**Testimony To The  
HOUSE POLITICAL SUBDIVISIONS COMMITTEE  
Prepared February 5, 2009 by  
Terry Traynor – Assistant Director  
North Dakota Association of Counties**

# 2  
Same given  
to Senate.

**REGARDING HOUSE BILL No. 1271**

Chairman Wrangham and members of the Committee, the North Dakota Association of Counties requested the introduction of this bill and urges your support.

As many of you are most likely aware, after each decennial census, counties must redistrict for the election of commissioners, just as the Legislative districts must be redrawn to ensure equitable voter representation.

Following the last two decennial censuses, there was considerable confusion and concern about the process of county redistricting for the purpose of electing county commissioners. (There were likely similar concerns before that but I was not around.) NDCC 11-07, governing this process, was enacted well over a hundred years ago and has been extensively amended – yielding a complex, somewhat incoherent result.

Since the redistricting in 2001, county commissioners, and more particularly county auditors – who generally must manage this process – have discussed the desirability of making some changes to the chapter before counties are faced with mandatory redistricting again. To this end, NDACo (with a great deal of help from several auditors) has developed amendments to the chapter that we believe will provide greater clarity and improvement without changing the basic structure of the redistricting board or the redistricting methods.

The following is a section-by-section explanation of what this bill draft would accomplish:

**Section 1.** Amends 11-07-01 to add the County Auditor as an ex-officio, non-voting member of the redistricting board to ensure that communication on other district boundaries, precincts and polling locations are taken into consideration. In reality, the auditor must be intimately involved in this election issue and this change would simply incorporate that expectation in a more formal manner – without changing the current mix of voting members on the redistricting board.

**Section 2.** Amends 11-07-02 in two places:

- Starting on line 19 of page 2, it eliminates the requirement to establish a redistricting board if the county's commissioners are currently *elected at large and serve at large*, unless either the commission (by resolution) or the voters (by petition) want a redistricting board established. Those counties that have found it impossible to form reasonable, coherent districts in the past believe the requirement to go through the motions is unreasonable. The petition threshold, we believe, is sufficiently low to initiate the creation of a redistricting board if there is a perceived need.
- Starting on line 31 of page 2, the bill delays the required public hearing until (no less than) 30 days prior to the completion of the redistricting plan. Currently, the hearing is required within 4 months of the release of the Census data, which in some counties is 3 or 4 months BEFORE completion of the redistricting plan. Since Legislative redistricting is, in many counties, a prerequisite to commissioner redistricting (to unify boundary lines where possible – minimizing ballot styles), many auditors felt that a hearing that early was a bit meaningless.

**Section 3.** Amends 11-07-03 to create three distinct subsections, creating a hierarchy to the redistricting process – using the three existing redistricting arrangements currently permitted under law. The redistricting board would be charged with:

1. First looking at the possibility of the traditional “*elect in districts/serve in districts*” model (with <10% population variance), AND removes the sentence requiring at least one predominantly rural district;
2. Then, (if “1” is not possible) looking at the “*elect at large/serve in districts*” model (currently called the optional method – with “*as nearly equal populations as is practicable*”), and
3. Then, if these two fail to work, use the “*elect at large/serve at large*” model.

The section would also advance the required date for the redistricting board to file their plan from April 1 to January 1. As the Legislature normally finalizes their redistricting by December 1<sup>st</sup> and the county auditor must finalize precinct boundaries by December 31<sup>st</sup> according to other statutes, this change places it within the same time frame. Of course, without legislative district boundary issues, a county could still finalize commissioner districts earlier. The current April 1 date in an “even” year makes little sense; as county commissioners would likely be circulating nominating petitions well before that date.

**Section 4.** Repeals 11-07-03.1, which is incorporated almost in total into the previous section.

Chairman Wrangham and committee members, I hope this testimony clarifies the counties' interest in this Legislation, and I respectfully request a “Do Pass” recommendation.